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There is a particular kind of foolishness which afflicts normally intelligent lawmakers when it comes to dealing with the problem of intelligence. It is a belief that problems arising from intelligence — covert action, counterintelligence, clandestine collection, analysis and estimates — can be solved by remedial legislation or by presidential guidelines of what is permissible or impermissible intelligence activity.

True, some problems can be solved by legislation or give the appearance of having been solved.

Most difficulties, however, which arise in the intelligence process are really beyond reach of legislative action. If the laws are intended to inhibit what Congress might regard as beyond the pale of acceptable activity in a democracy, they will not only inhibit specific activity but may well lead to an immobilized intelligence agency.

For the CIA officer, it may be safer to do nothing — since there are no sanctions for inactivity — than to do anything which might risk, even retroactively, legal reprisal.

I believe it was Abba Eban who once said that if you insist on open covenants openly arrived at you may not achieve any covenants at all. The Eban aphorism might well apply to intelligence activity. There can be no such phenomenon as overt covert action or open clandestine collection, anymore than there can be fried snowballs. Yet our lawmakers insist on the impossible.

Such seems to be the case with the Senate Select Committee on Intelligence headed by the redoubtable Democratic Sen. David L. Boren of Oklahoma. The committee has announced, according to The Washington Post, that as part of its monitoring of CIA covert action programs it will conduct "for the

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Not a risk-free business

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first time financial audits of secret intelligence operations."

Republican Sen. David F. Durenberger of Minnesota disagreed with the new policy, arguing that the purpose of congressional oversight "is to help intelligence, not to have an audit team sitting on the back of the [CIA] operations department." Mr. Durenberger headed the select committee in 1985 and 1986.

Mr. Boren explained that there won't be hundreds of auditors but a mere handful on the Senate Committee staff "with the capability to swoop down unannounced to spot-check accounts in the covert action field. It's more of a deterrent."

A deterrent to what? A deterrent to covert action.

What are the auditors going to audit? Money that changed hands secretly between a CIA officer and an "asset" — perhaps, the national of a CIA-targeted country or some foreign government official.

Does the Senate Committee expect a signed receipt for funds received from the recipient who, by the laws of his country, may be guilty of treason? And are the auditors

then going to ask the identified recipient whether he not only received money but how much (and, please, show us your bank deposit slip) in order to make sure the CIA officer hasn't kited the receipt?

What CIA informant is going to be stupid enough to sign receipts when he knows there's going to be an audit?

Acting CIA Director Robert M. Gates and NSC Adviser Frank C. Carlucci reportedly have agreed to the Boren auditing proposal. What else could they do?

Yet both men, veteran intelligence officers and administrators, know well that meaningful U.S. covert activities are really disappearing from the U.S. intelligence arsenal. Perhaps, such activities should disappear from what should be an integral and integrated part of American foreign policy. Perhaps, a wide-open society like ours cannot really enjoy a covert-action component and that, therefore, an attempt to develop a covert capacity is doomed from the start.

I have long studied the problems of congressional oversight of intelligence, a congressional function which, while constitutionally authorized, may often intrude on a presidential prerogative in the formulation of foreign policy. There are no easy policy answers in a democracy to the problems of espionage and clandestinity.

The Boren proposal, however safeguarded and seemingly harmless, in reality is another nail in the coffin of American intelligence capacity. The CIA itself hammered home some of those nails during its heyday under Allen Dulles. But whoever may be blamed for our intelligence collapse (and it has collapsed, especially counterintelligence), the intelligence crisis has reached a point of insolubility.

For a superpower to be so disarmed against its enemies in the Kremlin and in Eastern Europe means that American security is at risk. Bandaid solutions can only aggravate the crisis.